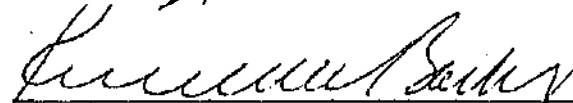
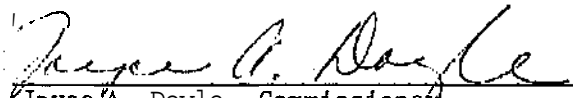


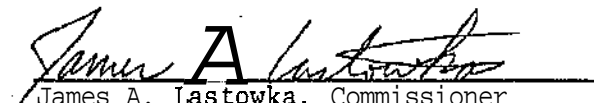
miner (Tr. 108), his drilling assignment appears to have been routine, and the record does not reflect that any unusual mining conditions were present. We emphasize that the facts here differ significantly from the nearly total lack of contact involved in Old Ben. See 4 FMSHRC at 1801-02. Therefore, on the facts involved in the present case, the judge erred in concluding that a violation of the standard occurred.

For the foregoing reasons, the decision of the administrative law judge is reversed and the civil penalty assessed by the judge is vacated.


Ford B. Ford, Chairman


Richard V. Backley, Commissioner


Joyce A. Doyle, Commissioner


James A. Lastowka, Commissioner


L. Clair Nelson, Commissioner